

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA BOARD OF TEACHING

In the Matter of the Proposed
Revocation of the Teaching License of
Llewellyn Foote

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above-entitled matter came on for hearing before Administrative Law Judge George A. Beck at 9:30 a.m. on Tuesday, November 28, 1995, in Room 716, Capitol Square Building, 550 Cedar Street in the city of St. Paul, Minnesota. The record closed on the date of the hearing.

Bernard E. Johnson, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101, appeared on behalf of the staff of the Minnesota Board of Teaching. Llewellyn Foote, 1879 Buffalo Slough Trail, Welch, Minnesota 55089, appeared representing himself.

This report is a recommendation, not a final decision. The Minnesota Board of Teaching will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusions and Recommendations contained in this recommended decision. Under Minn. Stat. § 14.61, the final decision of the Board shall not be made until this recommended decision has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this recommended decision to file exceptions and present argument to the Board. Parties should contact Judith A. Wain, Executive Secretary, Minnesota Board of Teaching, 608 Capitol Square, 550 Cedar Street, St. Paul, Minnesota 55101, telephone: (612) 296-2415, to learn the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this contested case proceeding is whether or not the Licensee has demonstrated immoral character or engaged in immoral conduct or obtained a license by fraud or misrepresentation.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On February 27, 1987, Mr. Foote pled guilty to a felony charge of intra-familial sexual abuse in the second degree. (Ex. 10.) At that time, Mr. Foote admitted that from 1982 through 1984, he sexually abused his stepdaughter, then age five to seven, by penetrating her vaginal area with his finger. (Ex. 10.)

2. Mr. Foote was first charged with this crime in 1984. (Ex. 7.) Although he knew he had been charged in 1984, he did not turn himself in. (Ex. 10.)

3. On April 13, 1987, Mr. Foote was sentenced to 21 months in Stillwater, stayed to probation of 10 years on the condition that he served eight months in the workhouse and participate in treatment. (Ex. 13.)

4. In 1989, Mr. Foote violated his probation by leaving St. Paul for South Dakota. He returned to St. Paul in 1991 when he learned there was a warrant for his arrest. Mr. Foote appeared in court on September 17, 1991, after serving seven days in jail and was continued on probation at that time. (Ex. 17.)

5. On April 13, 1992, Mr. Foote was discharged from probation based upon the recommendation of his Probation Officer. (Ex. 19.)

6. In March of 1994, Mr. Foote applied for a teaching license in American Indian language and culture and was granted the license. On his application the question appeared, "Have you ever been convicted of a crime other than a traffic violation?" Mr. Foote answered, "No" to this question. (Ex. 1.)

7. At the hearing in this matter, Mr. Foote stated that he no longer wished to maintain his teaching license and would not pursue a teaching career.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Board of Teaching and the Administrative Law Judge have jurisdiction in this matter under Minn. Stat. §§ 125.09, subd. 1, and 14.50.

2. The Board has complied with all relevant substantive and procedural requirements of statute and rule.

3. The Licensee, Mr. Foote, received proper and timely notice of the hearing in this matter.

4. Minn. Stat. § 125.09, subd. 1(1), provides that immoral character or conduct is grounds for revocation of a teacher's license.

5. The conduct described in Findings of Fact No. 1 constitutes immoral character and conduct.

6. Minn. Stat. § 125.09, subd. 1(5), makes fraud or misrepresentation on a license application grounds for revocation of a teaching license.

7. The Licensee, Mr. Foote, provided false information on his license application in March of 1994, and thereby obtained a license through fraud or misrepresentation.

8. The Board staff has proved the facts at issue in this proceedings by a preponderance of the evidence.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Board of Teaching take disciplinary action against the teaching license of Llewellyn Foote.

Dated this 29th of November, 1995

/s/

GEORGE A. BECK

Administrative Law Judge

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NOTICE

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Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to served its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

Reported: Taped, transcript prepared.